

BURKE, WILLIAMS & SORENSEN, LLP
Richard J. Reynolds, Bar No. 89911
rreynolds@bwsllaw.com
Rafael R. Garcia-Salgado, Bar No. 283230
rgarcia@bwsllaw.com
1851 East First Street
Suite 1550
Santa Ana, CA 92705-4067
Telephone: 949.863.3363
Facsimile: 949.863.3350

Attorneys for Defendants
SPECIAL DEFAULT SERVICES, INC.; TRINITY
FINANCIAL SERVICES, LLC; and NEWPORT
BEACH HOLDINGS, LLC

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

CECILIA MANGAOANG,
Debtor,

Case No. 18-52245-MEH

Adv. No. 18-05062

Chapter Number: 13

**DEFENDANTS SPECIAL DEFAULT
SERVICES, INC., TRINITY FINANCIAL
SERVICES, LLC, AND NEWPORT
BEACH HOLDINGS, LLC'S RESPONSE
IN SUPPORT OF ORDER TO SHOW
CAUSE**

DATE: April 22, 2019
TIME: 11:00 a.m.
CTRM: 3020

CECILIA MANGAOANG,
Plaintiff,

v.

SPECIAL DEFAULT SERVICES, INC.;
TRINITY FINANCIAL SERVICES, LLC;
NEWPORT BEACH HOLDINGS, LLC;
Does 1-10, inclusive

Defendants.

1 Defendants Special Default Services, Inc., Trinity Financial Services, LLC, and Newport
2 Beach Holdings, LLC (collectively, “Defendants”) hereby respond in support of the Order to
3 Show Cause (this “Response”) issued by the Court on March 18, 2019. This Response is based
4 on the authorities cited herein and on such additional submissions and argument as may be
5 presented at or before the hearing on the Order to Show Cause (the “OSC”). In support of this
6 Response, the Defendants respectfully state as follows:

7 **INTRODUCTION**

8 The Debtor has just filed yet another state court lawsuit against Defendants for the
9 purpose of challenging her foreclosure. The instant adversary proceeding is now just one in a
10 long chain of fatally flawed litigations commenced by the Debtor. As the Debtor’s main
11 bankruptcy case has been dismissed and there are no ancillary matters to resolve in this
12 proceeding, the Court should dismiss this case.

13 **STATEMENT OF FACTS**

14 **A. The Adversary Proceeding**

15 1. On December 4, 2018, the Debtor filed her Adversary Complaint, Case No. 18-
16 05062-MEH [Docket No. 1].

17 2. On December 7, 2018, the Debtor filed her First Amended Adversary Complaint
18 [Docket No. 7].

19 3. On January 17, 2019, Special Default Services, Inc. (“SDS”) filed its Answer to
20 Complaint [Docket No. 20].

21 4. On January 17, 2019, Trinity filed its Answer to Complaint [Docket No. 21].

22 5. On January 17, 2019, Newport Beach Holdings, LLC (“NBH”) filed its Answer to
23 Complaint [Docket No. 22].

24 6. On February 11, 2019, the Debtor filed her Motion for Leave to File Second
25 Amended Complaint [Docket No. 24].

26 7. On February 20, 2019, the Debtor filed her Motion for Temporary Restraining
27 Order, Memorandum in Support of Motion for Temporary Restraining Order, and Declaration in
28 Support of Motion for Temporary Restraining Order [Docket Nos. 27, 28, and 29].

1 8. On February 22, 2019, Defendants filed their Opposition to Motion for Temporary
2 Restraining Order and its Evidentiary Objections in Support of Opposition to Motion for
3 Temporary Restraining Order [Docket Nos. 32 and 33].

4 9. On February 25, 2019, the Court issued its Temporary Restraining Order [Docket
5 No. 35]. This injunctive relief expired on its own terms on March 11, 2019 at 9:00 AM.

6 10. On February 27, 2019, the Debtor filed her Notice of Lis Pendens and Request for
7 Order Approving Notice of Pendency of Action [Docket Nos. 43 and 44].

8 11. On March 1, 2019, the Debtor filed her Notice of Non-Consent to Electronic
9 Service [Docket No. 49].

10 12. On March 7, 2019, Defendants filed their Opposition to Preliminary Injunction
11 [Docket No. 56].

12 13. On March 8, 2019, the Court issued its Order Denying Preliminary Injunction
13 [Docket No. 58].

14 14. Defendants filed their Opposition to the Debtor's Motion for Leave to file a
15 Second Amended Complaint on March 13, 2019 [Docket No. 60].

16 **B. The Foreclosure of the Subject Property**

17 15. Newport Beach Holdings, LLC ("NBH"), the prior owner of Trinity's second lien,
18 caused to be recorded a Notice of Default and Election to Sell Under Deed of Trust as Document
19 No. 23426666 in the Santa Clara County Recorder's office on September 9, 2016. This document
20 is attached as Exhibit 9 to Trinity's Opposition to Preliminary Injunction [Docket No. 56].
21 Defendants request the Court take judicial notice of this recorded document pursuant to Fed. R.
22 Evid. 201.

23 16. NBH caused to be recorded a Notice of Sale as Document No. 23552011 in the
24 Santa Clara County Recorder's Office on January 6, 2017. This document is attached as Exhibit
25 10 to Trinity's Opposition to Preliminary Injunction [Docket No. 56]. Defendants request the
26 Court take judicial notice of this recorded document pursuant to Fed. R. Evid. 201.

27 17. On September 12, 2018, NBH recorded an Assignment of Deed of Trust
28 transferring the interest to Trinity. This document was recorded as Document No. 24022209 in

1 the Santa Clara County Clerk-Recorder's Office.

2 18. On September 6, 2018, Trinity and NBH's foreclosing trustee, Special Default
3 Services, caused to be recorded a Notice of Trustee's Sale against the Debtor's subject property.
4 This Notice of Trustee's Sale was recorded as Document No. 24018268 in the Santa Clara
5 County Clerk-Recorder's office, and is attached as Exhibit 11 to Trinity's Opposition to
6 Preliminary Injunction [Docket No. 56]. Defendants request the Court take judicial notice of this
7 recorded document pursuant to Fed. R. Evid. 201.

8 19. On November 5, 2018, as there was no automatic stay in effect, the foreclosure
9 trustee for the subject property completed its foreclosure sale on the subject property. The
10 Trustee's Deed Upon Sale in favor of Trinity was recorded in the Santa Clara County Clerk-
11 Recorder's office as Document No. 24064356. A true and correct copy of the Trustee's Deed
12 Upon Sale in favor of Trinity is attached as Exhibit 4 to Trinity's Objection to the original
13 Chapter 13 Plan [Main Case Docket No. 43]. Defendants request the Court take judicial notice of
14 this recorded document pursuant to Fed. R. Evid. 201.

15 **C. The Unlawful Detainer Proceeding**

16 20. On January 3, 2019, the Debtor filed her Verified Notice of Motion and Motion to
17 Hold Case in Abeyance Pending Adversary Proceeding, Bankruptcy, and Appeal ("Abeyance
18 Motion"). *See* Exhibit 1 to the Opposition to Preliminary Injunction [Docket No. 56].
19 Defendants request that the Court take judicial notice of the state court pleadings and orders
20 attached to the Opposition.

21 21. On January 8, 2019, the Debtor filed her Notice of Motion and Motion for More
22 Definite Statement. *See* Exhibit 2 to the Opposition to Preliminary Injunction [Docket No. 56].

23 22. On January 11, 2019, the state court issued its Order denying the Debtor's motion
24 to quash and overruling the Debtor's Demurrer. *See* Exhibit 3 to the Opposition to Preliminary
25 Injunction [Docket No. 56].

26 23. On January 14, 2019, the Debtor filed her Verified Objection to Order to Answer.
27 *See* Exhibit 4 to the Opposition to Preliminary Injunction [Docket No. 56].

28 24. On January 17, 2019, Trinity filed its Opposition to the Debtor's Motion to Hold

Case in Abeyance Pending Adversary Proceeding, Bankruptcy Case, and Appeal (“Abeyance Opposition”). See Exhibit 5 to the Opposition to Preliminary Injunction [Docket No. 56].

25. On January 23, 2019, Trinity filed its Opposition to the Debtor’s Motion for More Definite Statement. See Exhibit 6 to the Opposition to Preliminary Injunction [Docket No. 56].

45. On February 5, 2019, the state court issued its Order Denying Defendant’s Motion to Hold Case in Abeyance Pending Adversary Proceeding, Bankruptcy Case and Appeal (“Abeyance Order”). See Exhibit 7 to the Opposition to Preliminary Injunction [Docket No. 56].

26. On February 7, 2019, the state court denied the Debtor’s Motion for More Definite Statement at the hearing on that motion.

27. On February 7, 2019, the Debtor filed her Verified Notice of Motion and Motion for Discovery. See Exhibit 8 to the Opposition to Preliminary Injunction [Docket No. 56].

28. On March 14, 2019, the state court issued its Judgment in favor of Trinity. A true and correct copy of the Judgment is attached hereto as **Exhibit 1** and incorporated herein by reference.

ARGUMENT

29. The Court dismissed the Debtor’s main bankruptcy case on March 25, 2019 for her failure to prosecute a confirmable plan [Main Case Docket No. 102].

30. As the main case is dismissed, there is no bankruptcy estate remaining, and the Court lacks jurisdiction over the instant adversary proceeding. *Spacek v. Thomen (In re Universal Farming Indus.)*, 873 F.2d 1334, 1335 (9th Cir.1989) (dismissal of underlying bankruptcy case moots all issues directly involving the debtor's reorganization, but not those ancillary to the bankruptcy). Accordingly, this case must be dismissed.

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CONCLUSION

For the reasons in this Response, Defendants respectfully request that Court dismiss this adversary proceeding.

Dated: March 26, 2019

BURKE, WILLIAMS & SORENSEN, LLP


By: 
Richard J. Reynolds
Rafael R. Garcia-Salgado
Attorneys for Defendants
SPECIAL DEFAULT SERVICES, INC.;
TRINITY FINANCIAL SERVICES, LLC;
and NEWPORT BEACH HOLDINGS,
LLC

Exhibit 1

1 Randall D. Naiman, Esq. - State Bar No. 81048
2 NAIMAN LAW GROUP, PC
3 4660 La Jolla Village Drive, Suite 650
4 San Diego, California 92122
(858) 224-6800 (telephone)
(858) 224-6801 (facsimile)
Randall@Naimanlaw.com (e-mail)

FILED

2019 MAR 14 A 8:48

CLERK OF THE COURT
JUDICIAL BRANCH OF CA
COUNTY OF SANTA CLARA
BY *Katharine Uy*

5 Attorney for Plaintiff, TRINITY FINANCIAL SERVICES, LLC

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
9 DOWNTOWN SUPERIOR COURT

10 TRINITY FINANCIAL SERVICES, LLC

Case No.: 18CV339119

11 Plaintiff,

~~PROPOSED~~ JUDGMENT

12 vs.

13
14 CECILIA MANGAOANG; and DOES 1 to 6,
15 inclusive

16 Defendants.

Date: March 1, 2019

Time: 9:15 a.m.

Dept: 11

Action filed: December 7, 2018

Trial date: None assigned

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23 This Court, having on March 1, 2019, granted the motion of Plaintiff for summary
24 judgment, and having ordered entry of judgment as requested in said motion,

25 IT IS ADJUDGED AND DECREED that Plaintiff, TRINITY FINANCIAL SERVICES,
26 LLC, have and recover from defendant CECILIA MANGAOANG and ALL UNKNOWN
27 OCCUPANTS possession of the premises located at 2901 Capewood Lane, San Jose, California
28 95113 ("premises"). The clerk of this Court is directed to issue a writ possession directing the
County of Santa Clara

1 sheriff to take all legal steps necessary to remove Defendant from the premises. The judgment
2 shall run against "all occupants" pursuant to California Code of Civil Procedure § 415.46.
3

4 IT IS SO ORDERED.

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6 Dated: 3-14-19



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8 JUDGE OF THE SUPERIOR COURT
9 Judge Carol Overton
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1 **PROOF OF SERVICE**

2 I, Johnnelle Gomez, declare:

3 I am a citizen of the United States and employed in Orange County, California. I am over
4 the age of eighteen years and not a party to the within-entitled action. My business address is
1851 East First Street, Suite 1550, Santa Ana, California 92705-4067.

5 On **March 26, 2019**, I electronically filed the attached document:

6 **DEFENDANTS SPECIAL DEFAULT SERVICES, INC., TRINITY**
7 **FINANCIAL SERVICES, LLC AND NEWPORT BEACH HOLDINGS,**
8 **LLC'S RESPONSE IN SUPPORT OF ORDER TO SHOW CAUSE**

9 with the Clerk of the court using the CM/ECF system which will then send a notification of such
10 filing to the following:

- 11 • Rafael Ramon Garcia-Salgado rgarcia@bwsllaw.com, dwetters@bwsllaw.com
- 12 • Richard J. Reynolds rreynolds@bwsllaw.com, psoeffner@bwsllaw.com

13 And I hereby do certify that I have mailed by United States Postal Service the document to the
14 following non CM/ECF participants:

15 Cecilia Mangaoang
16 2901 Capewood Lane
17 San Jose, CA 95132

Judge M. Elaine Hammond
United States Courthouse, Room 3035
280 South First Street
San Jose, CA 95113-3099

18 I declare that I am employed in the office of a member of the bar of this court at whose
19 direction the service was made.

20 Executed on **March 26, 2019**, at Santa Ana, California.

21 */s/ Johnnelle Gomez*

22 _____
23 Johnnelle Gomez